

Settlement Agreement -- Exhibit A

XCP Titles Distributed in the United States¹

ARTIST	TITLE	ITEM NUMBER(S)	UPC(S)
A Static Lullaby	Faso Latido	CK92772	827969277225
Acceptance	Phantoms	CK89016	696998901629
Amerie	Touch	CK90763	827969076323
Art Blakey	Drum Suit	CK93637	827969363720
The Bad Plus	Suspicious Activity?	CK94740	827969474020
Bette Midler	Sings the Peggy Lee Songbook	CK95107 CK74815	827969510728 828767481524
Billie Holiday	The Great American Songbook	CK94294	827969429426
Bob Brookmeyer	Bob Brookmeyer & Friends	CK94292	827969429228
Buddy Jewell	Times Like These	CK92873	827969287323
Burt Bacharach	At This Time	CK97734	827969773420
Celine Dion	On Ne Change Pas	E2K97736	827969773628
Chayanne	Cautivo	LAK96819 LAK96818 LAK95886	037629681921 037629681822 037629588626
Chris Botti	To Love Again	CK94823	827969482322
The Coral	The Invisible Invasion	CK94747	827969474723
Cyndi Lauper	The Body Acoustic	EK94569	827969456927
The Dead 60's	The Dead 60's	EK94453	827969445327
Deniece Williams	This Is Niecy	CK93814	827969381427
Dextor Gordon	Manhattan Symphonie	CK93581	827969358122
Dion	The Essential Dion	CK92670	827969267028
Earl Scruggs	I Saw The Light With Some Help From My Friends	CK92793	827969279328
Elkland	Golden	CK92036	827969203620
Emma Roberts	Unfabulous And More: Emma Roberts	CK93950 CK97684	827969395028 827969768426
Flatt & Scruggs	Foggy Mountain Jamboree	CK92801	827969280126
Frank Sinatra	The Great American Songbook	CK94291	827969429129

¹ Three titles — Ricky Martin, “Life”; Peter Gallagher, “7 Days in Memphis”; and a limited number of “Hidden Beach Presents Unwrapped Vol. 4” — were released with a content protection grid on the back of the CD packaging but XCP content protection software was not actually included on the albums.

G3	Live In Tokyo	E2K97685	827969768525
George Jones	My Very Special Guests	E2K92562	827969256220
Gerry Mulligan	Jeru	CK65498	074646549827
Horace Silver	Silver's Blue	CK93856	827969385623
Jane Monheit	The Season	EK97721	827969772126
Jon Randall	Walking Among The Living	EK92083	827969208328
Life Of Agony	Broken Valley	EK93515	827969351529
Louis Armstrong	The Great American Songbook	CK94295	827969429525
Mary Mary	Mary Mary	CK94812 CK92948	000768353721 827969294826
Montgomery Gentry	Something To Be Proud Of: The Best of 1999-2005	CK75324 CK94982	828767532424 827969498224
Natasha Bedingfield	Unwritten	EK93988	827969398821
Neil Diamond	12 Songs	CK94776 CK97811	827969477625 827969781128
Nivea	Complicated	82876671562	828766715620
Our Lady Peace	Healthy In Paranoid Times	CK94777	827969477724
Patty Loveless	Dreamin' My Dreams	EK94481	827969448120
Pete Seeger	The Essential Pete Seeger	CK92835	827969283523
Ray Charles	Friendship	CK94564	827969456422
Rosanne Cash	Interiors	CK93655	827969365526
Rosanne Cash	King's Record Shop	CK86994	696998699427
Rosanne Cash	Seven Year Ache	CK86997	696998699724
Shel Silverstein	The Best Of Shel Silverstein	CK94722	827969472224
Shelly Fairchild	Ride	CK90355	827969035528
Susie Suh	Susie Suh	EK92443	827969244326
Switchfoot	Nothing Is Sound	CK96534 CK96437 CK94581	827969653425 827969643723 827969458129
Teena Marie	Robbery	EK93817	827969381724
Trey Anastasio	Shine	CK96428	827969642825
Van Zant	Get Right With The Man	CK93500	827969350027
Vivian Green	Vivian	CK90761	827969076125

MediaMax 5.0 Titles Distributed in the United States

ARTIST	TITLE	SELECTION #
Alicia Keys	Unplugged	82876674242
		82876731662
Amici Forever	Defined	82876688832
Babyface	Grown & Sexy	82876705682
Black Rebel Motorcycle Club	Howl	8287671601
Britney Spears	Hitme - Remix	82876740622
Cassidy	I'm A Hustla	82876687072
		82876680732
Chris Brown	Chris Brown	82876733222
Cook, Dixon & Young	Volume One	82876673342
David Gray	Life In Slow Motion	82876710682
Dido	Dido Live	82876658099
Faithless	Forever Faithless/ENH	82876710142
Imogen Heap	Speak For Yourself	82876725322
Judd & Maggie	Subjects	82876692492
Leo Kottke/Mike Gordon	Sixty Six Steps	82876689092
Maroon 5	Live	82876709742
		82876699522
My Morning Jacket	Z	82876710672
Raheem Devaughn	The Love Experience	82876537232
Santana	All That I Am	82876597732
Sarah McLachlan	Bloom (Remix Album)	82876697982
Stellastarr*	Harmonies for the Haunted	82876688812
Syleena Johnson	Chapter 3: The Flesh	82876610932
T-Pain	Rappa Ternt Sanga	82876734472
		82876732002
Various	So Amazing: An All Star Tribute To Luther Vandross	82876624722
Various	Songs Brown Hotel	82876714112
Wakefield	Which Side Are You On?	82876685072
		82876681352
Charlie Wilson	Charlie, Last Name Wilson	82876694292
YoungBloodZ	Everybody Know Me	82876733402
		82876731752

MediaMax 3.0 Titles Distributed in the United States

ARTIST	TITLE	SELECTION #
Anderson, Keith	Three Chord Country	82876662942
Backstreet Boys	Never Gone (Walmart)	82876702442
Backstreet Boys	Never Gone (Target)	82876705342
Backstreet Boys	Never Gone	82876696112
Brickman, Jim	Grace	82876679792
Brickman, Jim	Grace (Provident Version)	82876687952
Citizen Cope	Clarance Greenwood Recordings	82876521142
Charlotte Martin	On Your Shore	82876606762
Chieftains, The	Live From Dublin	82876671372
Clay Aiken	Merry Christmas	82876626222
Dave Matthews Band	Stand Up	82876687962
Dido	"White Flag" W/Enhanced Features (Maxi	
Foo Fighters	In Your Honor (Bb Version)	82876705282
Foo Fighters	In Your Honor	82876680382
40 Below Summer	The Mourning After	79301828982
Hamilton, Anthoney	Coming From Where I'm From	82876521072
J-Kwon	Hood Hop (Edited)	82876583672
J-Kwon	Hood Hop (Ex)	82876576132
Kasabian	Kasabian	82876664282
Kings Of Leon	Aha Shake Heartbreak	82876645442
McLachlan, Sarah	"Fallen" W/Enhanced Features (Maxi Single)	82876601432
McLachlan, Sarah	Afterglow Live	82876644942
McLachlan, Sarah	Afterglow Live	82876645432
Nodesha	Get It While It's Hot (Maxi Single)	82876566902
Sahara Hotnights	Kiss & Tell	82876626892
Silvertide	Show & Tell	82876644022
Silvertide	Show & Tell (Ex)	82876609892
Soundtrack	Xxx: State Of The Union	82876679222
Soundtrack	Xxx: State Of The Union	82876681092
Stone, Angie	Stone Love	82876562152

Tha' Rayne	Didn't You Know (Maxi Single)	82876566882
Velvet Revolver	Contraband (Bb Version)	82876665102
Velvet Revolver	Contraband (Ed)	82876605242
Velvet Revolver	Contraband (Ex)	82876597942
Yung Wun	The Dirtiest Thir(Ex	82876607672
Yung Wun	The Dirtiest Thirstiest	82876609492
Various	Relaxation: A Windham Hill Collection	82876629422

Settlement Agreement -- Exhibit B

WHEREAS, SONY BMG Music Entertainment (“SONY BMG”) markets and, directly and indirectly, including through retailers, sells, among other things, compact discs (“CDs”) containing music from a wide variety of genres; and

WHEREAS, SONY BMG used two types of Content Protection Software on CDs during the Class Period, “MediaMax” and “XCP”; and

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headquartered in Arizona (Sunncomm International Inc. and another Nevada corporation headquartered in Arizona, MediaMax Technology Corp. being collectively referred to herein as “SunnComm”); and

WHEREAS, the MediaMax software included on SONY BMG CDs sold to consumers during the Class Period will be referred to herein as the “MediaMax Software,” and a SONY BMG CD or copy thereof containing MediaMax Software will be referred to herein as a “MediaMax CD”; and

WHEREAS, various versions of “XCP” were designed and licensed to SONY BMG by First 4 Internet Ltd. (“F4I,” and, collectively with SONY BMG and SunnComm, the “Defendants”), a corporation located in and organized under the laws of the United Kingdom; and

WHEREAS, the XCP versions included on SONY BMG CDs sold to consumers during the Class Period will be referred to herein as the “XCP Software,” and a SONY BMG CD or copy thereof containing XCP Software will be referred to herein as an “XCP CD”; and

WHEREAS, the following CD titles distributed by SONY BMG are XCP CDs:

A Static Lullaby	Faso Latido
Acceptance	Phantoms
Amerie	Touch
Art Blakey	Drum Suit
The Bad Plus	Suspicious Activity?
Bette Midler	Sings the Peggy Lee Songbook
Billie Holiday	The Great American Songbook
Bob Brookmeyer	Bob Brookmeyer & Friends
Buddy Jewell	Times Like These
Burt Bacharach	At This Time

Celine Dion	On Ne Change Pas
Chayanne	Cautivo
Chris Botti	To Love Again
The Coral	The Invisible Invasion
Cyndi Lauper	The Body Acoustic
The Dead 60's	The Dead 60's
Deniece Williams	This Is Niecy
Dextor Gordon	Manhattan Symphonie
Dion	The Essential Dion
Earl Scruggs	I Saw The Light With Some Help From My Friends
Elkland	Golden
Emma Roberts	Unfabulous And More: Emma Roberts
Flatt & Scruggs	Foggy Mountain Jamboree
Frank Sinatra	The Great American Songbook
G3	Live In Tokyo
George Jones	My Very Special Guests
Gerry Mulligan	Jeru
Horace Silver	Silver's Blue
Jane Monheit	The Season
Jon Randall	Walking Among The Living
Life Of Agony	Broken Valley
Louis Armstrong	The Great American Songbook
Mary Mary	Mary Mary
Montgomery Gentry	Something To Be Proud Of: The Best of 1999-2005
Natasha Bedingfield	Unwritten
Neil Diamond	12 Songs
Nivea	Complicated

Our Lady Peace	Healthy In Paranoid Times
Patty Loveless	Dreamin' My Dreams
Pete Seeger	The Essential Pete Seeger
Ray Charles	Friendship
Rosanne Cash	Interiors
Rosanne Cash	King's Record Shop
Rosanne Cash	Seven Year Ache
Shel Silverstein	The Best Of Shel Silverstein
Shelly Fairchild	Ride
Susie Suh	Susie Suh
Switchfoot	Nothing Is Sound
Teena Marie	Robbery
Trey Anastasio	Shine
Van Zant	Get Right With The Man
Vivian Green	Vivian

WHEREAS, the following CD titles distributed by SONY BMG are MediaMax CDs containing MediaMax 3.0:

Anderson, Keith	Three Chord Country
Backstreet Boys	Never Gone (Walmart)
Backstreet Boys	Never Gone (Target)
Backstreet Boys	Never Gone
Brickman, Jim	Grace
Brickman, Jim	Grace (Provident Version)
Citizen Cope	Clarence Greenwood Recordings
Charlotte Martin	On Your Shore
Chieftains, The	Live From Dublin
Clay Aiken	Merry Christmas
Dave Matthews Band	Stand Up
Dido	"White Flag" W/Enhanced Features (Maxi Single)

Foo Fighters	In Your Honor (Bb Version)
Foo Fighters	In Your Honor
40 Below Summer	The Mourning After
Hamilton, Anthoney	Coming From Where I'm From
J-Kwon	Hood Hop (Edited)
J-Kwon	Hood Hop (Ex)
Kasabian	Kasabian
Kings Of Leon	Aha Shake Heartbreak
Mclachlan, Sarah	"Fallen" W/Enhanced Features (Maxi Single)
Mclachlan, Sarah	Afterglow Live
Mclachlan, Sarah	Afterglow Live
Nodesha	Get It While It's Hot (Maxi Single)
Sahara Hotnights	Kiss & Tell
Silvertide	Show & Tell
Silvertide	Show & Tell (Ex)
Soundtrack	Xxx: State Of The Union
Soundtrack	Xxx: State Of The Union
Stone, Angie	Stone Love
Tha' Rayne	Didn't You Know (Maxi Single)
Velvet Revolver	Contraband (Bb Version)
Velvet Revolver	Contraband (Ed)
Velvet Revolver	Contraband (Ex)
Yung Wun	The Dirtiest Thirstiest (Ex)
Yung Wun	The Dirtiest Thirstiest
Various	Relaxation: A Windham Hill Collection

WHEREAS, the following CD titles distributed by SONY BMG are MediaMax CDs containing MediaMax 5.0:

Alicia Keys	Unplugged
Amici Forever	Defined
Babyface	Grown & Sexy
Black Rebel Motorcycle Club	Howl
Britney Spears	Hitme - Remix
Cassidy	I'm A Hustla

Chris Brown	Chris Brown
Cook, Dixon & Young	Volume One
David Gray	Life In Slow Motion
Dido	Dido Live
Faithless	Forever Faithless/ENH
Imogen Heap	Speak For Yourself
Judd & Maggie	Subjects
Leo Kottke/Mike Gordon	Sixty Six Steps
Maroon 5	Live
My Morning Jacket	Z
Raheem Devaughn	The Love Experience
Santana	All That I Am
Sarah McLachlan	Bloom (Remix Album)
Stellastarr*	Harmonies for the Haunted
Syleena Johnson	Chapter 3: The Flesh
T-Pain	Rappa Ternt Sanga
Various	So Amazing: An All Star Tribute To Luther Vandross
Various	Songs Brown Hotel
Wakefield	Which Side Are You On?
Charlie Wilson	Charlie, Last Name Wilson
YoungBloodZ	Everybody Know Me

WHEREAS, six complaints—*Maletta v. SONY BMG Music Entm't*, No. 05 CV 10637 (UA) (S.D.N.Y. Dec. 19, 2005); *Ricciuti v. SONY BMG Music Entm't*, No. 05 CV 10190, consolidated as No. 05 CV 9609(NRB) (S.D.N.Y. Dec. 5, 2005); *Klewan v. Arista Holdings Inc. d/b/a SONY BMG Music Entm't*, No. 05 CV 9609, consolidated as No. 05 CV 9575 (NRB) (S.D.N.Y. Nov. 14, 2005); *Michaelson v. SONY BMG Music, Inc.*, No. 05 CV 9575 (NRB) (S.D.N.Y. Nov. 14, 2005); *Potter v. SONY BMG Music Entm't*, No. 05 CV 9607, consolidated as No. 05 CV 9575 (NRB) (S.D.N.Y. Nov. 14, 2005); *Rivas v. SONY BMG Music Entm't*, No. 05 CV 9598, consolidated as No. 05 CV 9575 (NRB) (S.D.N.Y. Nov. 14, 2005)—were filed in the Southern District of New York and are subject to consolidation before the Honorable Naomi Reice Buchwald into the above-referenced *SONY BMG CD Technologies Litigation* (the

WHEREAS, a Consolidated Amended Complaint in the Action (hereafter, the “Complaint”) was filed on December 28, 2005; and

WHEREAS, as of the date of Settlement, other complaints raising substantially identical claims (collectively, the “Non-S.D.N.Y. Actions”) have been filed in other jurisdictions as follows: *Black v. SONY BMG Music Entm’t*, No. CIV-05-1315 WDS/RLP (D. N.M. Dec. 19, 2005); *Klemm v. SONY BMG Music Entm’t*, No. C 05 5111 BZ (N.D. Cal. Dec. 9, 2005); *Melcon v. SONY BMG Music Entm’t*, No. C 05 5084 MHP (N.D. Cal. Dec. 8, 2005); *Ponting v. SONYBMG Music Entm’t, LLC*, No. CV-05-08472-JFW(AJWx) (C.D. Cal. Dec. 2, 2005); *Jacoby v. SONY BMG Music Entm’t*, No. 05/116679 (N.Y. Sup. Ct. Nov. 30, 2005); *Bahnmaier v. SONY BMG Music Entm’t*, No. CJ 2005 06968 (Okla. Dist. Ct. Nov. 28, 2005); *Xanthakos v. SONY BMG Music Entm’t, LLC*, No. 05-0009203 (D.C. Super. Ct. Nov. 28, 2005); *Maletta v. SONY BMG Music Entm’t Corp.*, No. BC343615 (Cal. Super. Ct. Nov. 28, 2005); *Burke v. SONY BMG Music Entm’t*, No. 857213 (Cal. Super. Ct. Nov. 22, 2005); *Hull v. SONY BMG Music Entm’t*, No. BC343385 (Cal. Super. Ct. Nov. 21, 2005); *Cooke v. SONY BMG Music Entm’t*, No. 05-0009093 (D.C. Super. Ct. Nov. 18, 2005); *DeMarco v. SONY BMG Music*, No. 2:05-cv-05485-WHW-SDW (D.N.J. Nov. 17, 2005); *Stynchula v. Sony Corp. of Am.*, No. BC343100 (Cal. Super. Ct. Nov. 15, 2005); *Gruber v. Sony Corp. of Am.*, No. BC342805 (Cal. Super. Ct. Nov. 9, 2005); *Guevara v. SONY BMG Music Entm’t*, No. BC342359 (Cal. Super. Ct. Nov. 1, 2005) (although several of the complaints in the Action and the Non-S.D.N.Y. Actions misstate the name of SONY BMG, it is understood that SONY BMG is the defendant meant to have been named in each such complaint); and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that, when and if an XCP CD is inserted into a computer, an End User License Agreement (a

“EULA”, and, with respect to XCP CDs, the “XCP EULA”) appears automatically on the screen and the XCP Software installs itself on the user’s computer; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions assert that the XCP Software contains a potentially harmful “rootkit” which renders the user’s computer more vulnerable to “malware” promulgated by third parties, including “viruses,” “Trojan Horses” and “spyware,” than the computers would have been had the software not been installed; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that the XCP Software interferes with the user’s ability to access the music via non-XCP software, consumes excess computer resources and causes system errors; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that SONY BMG, including through the XCP EULA, misrepresented, or did not fully or adequately disclose, the true nature of the XCP Software; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that the XCP EULA contained terms that are unconscionable or otherwise unenforceable; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that once installed, the XCP Software is difficult to locate and remove, and that SONY BMG did not make available a ready means to uninstall the XCP Software; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that when SONY BMG made an uninstaller program available to remove the XCP Software, this program also created a security risk; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that, when a MediaMax CD is inserted into a computer, a EULA appears automatically on the screen (for CDs containing the MediaMax 3.0 software, the “MediaMax 3.0 EULA”; for CDs

containing the MediaMax 5.0 software, the “MediaMax 5.0 EULA”; each, a “MediaMax EULA”, and collectively, the “MediaMax EULAs”), and that certain software files are immediately loaded onto the computer even before the user of the MediaMax CD has an opportunity to accept or reject the MediaMax EULA; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that this software remains on the computer even if the MediaMax EULA is rejected; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions also allege that SONY BMG, including through the MediaMax EULAs, misrepresented, or did not fully or adequately disclose, the true nature of the MediaMax Software; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that the MediaMax EULAs contained terms that are unconscionable or otherwise unenforceable; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that at least one version of MediaMax Software causes a file folder to be installed on a user’s computer that renders the user’s computer more vulnerable to security breaches by third parties by allowing these third parties to gain enhanced permissions over the user’s computer running the Windows operating system; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that SONY BMG did not make available a ready means to uninstall the MediaMax Software; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions allege that when SONY BMG made a program available to uninstall the MediaMax Software, this program also created a security risk; and

WHEREAS, the Complaint and the complaints in the Non-S.D.N.Y. Actions claim that the SONY BMG and F4I, by disseminating the XCP Software on XCP CDs, and that SONY BMG and SunnComm, by disseminating the Media Max software on Media Max CDs, violated,

among other things, the Computer Fraud and Abuse Act ("CFAA"), 18 U.S.C. § 1030, et seq.; the consumer fraud, false advertising, and/or deceptive trade practices laws of the several states, and state and federal common law; and

WHEREAS, the Complaint seeks injunctive relief, equitable relief, restitution, and damages on behalf of a nationwide class of consumers who used any of the MediaMax CDs and/or the XCP CDs; and

WHEREAS, the plaintiffs in the Non-S.D.N.Y. Actions seek essentially the same relief on behalf of a nationwide class or the residents of individual states; and

WHEREAS, Plaintiffs, through their counsel, have conducted an investigation of the facts and analyzed the relevant legal issues and believe that the claims asserted in the complaints have substantial merit, have examined the benefits to be obtained under the proposed Settlement, including the prompt removal of XCP CDs from the market, SONY BMG's ceasing production of the MediaMax software and in the testing of and disclosures regarding future Content Protection Software, and have considered the risks, costs and delays associated with the continued prosecution of this litigation and the likely appeals of any rulings in favor of either Plaintiffs or Defendants; and

WHEREAS, Defendants have conducted an investigation of the facts and analyzed the relevant legal issues; and

WHEREAS, Defendants deny all liability with respect to any and all facts or claims alleged in the Complaint, and believe that their defenses to the claims asserted in the Complaint have substantial merit; and

WHEREAS, Defendants also have weighed the potential risks, costs and delays associated with continued litigation of the Actions against the benefits of the proposed Settlement; and

WHEREAS, each of the Parties and counsel believes, in consideration of all the circumstances and after substantial arms' length settlement negotiations between counsel, that its interests are best served by entering into the settlement set forth in the Settlement Agreement, and that this proposed settlement is fair, reasonable, adequate and in the best interests of the Settlement Class; and

WHEREAS, the Parties also acknowledge that SONY BMG is subject to one lawsuit (*Texas v. SONY BMG Music Entertainment*, Dist. Ct., Travis Co, Tex.), an inquiry by the Federal Trade Commission, and numerous investigations by state attorneys general or other governmental authorities in various jurisdictions (together, the "Government Inquiries"), all of which cover materially the same subject matter as the Complaint and complaints in the Non-S.D.N.Y. Actions; and

WHEREAS, it is the intention of SONY BMG to seek to settle the Government Inquiries on an agreed basis to the maximum extent possible, with settlement term(s) to be disclosed to Plaintiffs' Class Counsel, the Court and the public; and

WHEREAS, it is the intention of the Parties that the terms of the Settlement Agreement be complementary to the terms of the anticipated settlement(s) of the Government Inquiries, particularly with respect to injunctive relief; and

WHEREAS, the Settlement Agreement among the parties defines "Released Claims" as any and all claims, rights, damages, losses, demands, obligations, actions, causes of action, suits, cross-claims, matters, issues, debts, liens, contracts, liabilities, agreements, costs, or expenses, of any nature whatsoever, ascertained or unascertained, suspected or unsuspected, existing or claimed to exist, including Unknown Claims, of any and all Plaintiffs and/or Settlement Class Members arising out of any purchase or use by them of an XCP CD or a MediaMax CD, the XCP Update (as defined below), the XCP Uninstaller (as defined below), the MediaMax Update

(as defined below), or the MediaMax Uninstaller (as defined below) or any installation or de-installation of XCP Software or MediaMax Software at any time, to the extent that such claims: (a) arise out of the Action or the Non-S.D.N.Y. Actions; (b) relate to any allegations that either were or could have been asserted in the Action or the Non-S.D.N.Y. Actions; or (c) which might in the future be asserted by any Plaintiff or Settlement Class Member, against any of the Released Parties that would arise out of, or relate to in any manner, directly or indirectly, any acts, facts, transactions, occurrences, conduct, representations or omissions alleged in the Action and the Non-S.D.N.Y. Actions, including, without limitation, claims respecting any disclosure, advertising or other descriptions of, or claims relating to (i) the nature, quality, value, and/or functionality of the MediaMax CDs, the XCP CDs, the MediaMax Software, MediaMax Update, MediaMax Uninstaller, XCP Software, XCP Update or XCP Uninstaller; and/or (ii) the EULAs, and/or (iii) the alleged collection by Defendants of Personal Data or IP addresses. Released Claims also include claims for abuse of process, malicious prosecution or any other claim arising out of, relating to, or in connection with the defense or resolution of the Action. For avoidance of doubt, Released Claims include claims relating to (i) the asserted costs of removing XCP Software and/or MediaMax Software from a computer or network and (ii) damages caused by negligent removal of XCP Software and/or MediaMax Software. The sole exception to the definition of Released Claims is that such claims do not include claims for consequential damage to a computer or network that may or are alleged to have resulted from interactions between the XCP Software or the MediaMax Software and other software or hardware installed on such computer or network. (For avoidance of doubt, Released Claims also do not include copyright, trademark or other claims concerning the ownership of intellectual property rights in the MediaMax Software or the XCP Software, or any uninstallers or updates thereto, which were not alleged); and

WHEREAS, the Settlement Agreement among the parties defines “Released Parties” as each and all of the Defendants and each and all of Defendants’ direct and indirect parent companies including, in the case of SONY BMG and without limitation, Sony Corporation and Bertelsmann AG, and each and all of each of Sony Corporation’s, Bertelsmann AG’s and Defendants’ respective divisions and direct and indirect subsidiaries, affiliates, partners, joint ventures, predecessors and successor corporations and business entities, and each and all of their past and present officers, directors, servants, licensees, joint ventures, sureties, attorneys, agents, consultants, advisors, contractors, employees, controlling or principal shareholders, general or limited partners or partnerships, divisions, insurers, designated management companies, and each and all of their successors or predecessors in interest, assigns, or legal representatives, and any persons or entities that have designed, developed, programmed, manufactured, supplied, advertised, marketed, distributed or sold MediaMax CDs and/or XCP CDs or software thereon; and.

WHEREAS, the Parties intend that the proposed Settlement embodied in the Settlement Agreement will resolve all Released Claims, including Unknown Claims (as that term is defined in the Settlement Agreement) against all Released Parties; and

WHEREAS, the Parties have engaged in intensive, complex, difficult and hard-fought arm’s-length negotiations; and

WHEREAS, as a result of those lengthy negotiations, the Parties have been able to reach an agreement to settle these Actions; and

WHEREAS, by the terms of the proposed Settlement of this Action, in exchange for the dismissal of the Action with prejudice, dismissal of all Released Claims with prejudice, and for entry of this Final Order and Judgment, within thirty (30) days after the Preliminary Approval Date, SONY BMG shall make available to all Settlement Class members all of the benefits and

relief set forth in the Settlement Agreement, the terms of which are expressly incorporated by reference herein, in accordance with the procedures set forth therein; and

WHEREAS, if, after the date on which the Settlement Agreement was executed, SONY BMG enters into any settlement agreement, consent decree, assurance of discontinuance or other, similar pre-trial resolution with a State Attorney General, or any class action settlement, in which SONY BMG undertakes to provide additional benefits directly to all Settlement Class Members who reside in any single state or states respecting Released Claims, SONY BMG agrees to offer the same benefits to all Settlement Class Members; and

WHEREAS, the parties expect that, by the date of the Fairness Hearing, SONY BMG will have entered into an enforceable, nationwide agreement resolving one or more of the Government Inquiries; and the parties also expect that the resolution of these Government Inquiries will include, at least, the restrictions on SONY BMG's future conduct stated below in the paragraph immediately following this paragraph; if, as of the date of the Fairness Hearing, SONY BMG has not entered into such an enforceable agreement, and/or if such agreement is not nationwide in scope and does not address each and every one of the provisions stated below in the paragraph immediately following this paragraph, then as of the date of the Fairness Hearing, the Settlement Agreement will be deemed amended to include an entitlement by Settlement Class Members to an injunction, during the Injunctive Period, addressing each and every such provision not addressed; and

WHEREAS, to the extent not covered in an agreement to resolve the Government Inquiries, SONY BMG shall, during the Injunctive Period, adhere to all of the affirmative and negative restrictions on its use of Content Protection Software described in Section IV of the Settlement Agreement; and

WHEREAS, on or about December 28, 2005, the Parties, by their duly authorized counsel, entered into a Settlement Agreement, which provides that, subject to the approval of this Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the claims asserted in this Action against Defendants were to be settled, compromised and dismissed with prejudice, upon and subject to the terms and conditions set forth therein; and

WHEREAS, on January __, 2006, this Court entered a Hearing Order (the "Hearing Order"), which, *inter alia*:

(a) certified, for settlement purposes only, pursuant to Rule 23(a) and Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure, a class consisting of the named Plaintiffs in the Action and all natural persons or entities in the United States who purchased, received, came into possession of or otherwise used one or more MediaMax CDs and/or XCP CDs prior to the Effective Date ("Settlement Class"); excluding Released Parties; SONY BMG-authorized resellers or distributors of the XCP CDs and MediaMax CDs; current or former employees of Released Parties; and any persons or entities that have previously executed releases discharging Defendants from liability concerning or encompassing any or all claims that are the subject of the Action and the Non-S.D.N.Y. Actions;

(b) appointed [insert names] as representatives of the Settlement Class;

(c) appointed Kamber & Associates, LLC and Girard Gibbs & De Bartolomeo LLP as Class Co-Counsel for the Settlement Class;

(d) preliminarily approved the Settlement, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure;

(e) set a hearing to take place on ____, 2006, at _____.m., before this Court, at the Daniel Patrick Moynihan United States Courthouse for the Southern District of New York, 500 Pearl Street, Room 2270, New York, New York (the "Fairness Hearing"), upon notice to members of the Settlement Class, to determine whether:

(i) the requirements for certification of the Settlement Class have been met;

(ii) the proposed settlement of the Action in accordance with the terms set forth in the Settlement Agreement, including as part of the Settlement the payment of Plaintiffs' counsel's attorneys' fees and reimbursement of Plaintiffs' counsel's expenses, should be approved as fair, reasonable and adequate; and

(iii) the Judgment approving the Settlement and dismissing the Action on the merits and with prejudice against Plaintiffs and Settlement Class Members should be entered.

(f) approved the form of the Notice of Pendency and Settlement Class Action (the "Full Settlement Notice"), substantially in the form of Exhibit F annexed to the Settlement Agreement, which contains instructions for Settlement Class Members to obtain the settlement benefits referenced in the Settlement Agreement, and approved the summary form of that Settlement Notice, substantially in the form of Exhibit G, annexed to the Settlement Agreement;

(g) prescribed the method and period of time for providing notice to members of the Settlement Class of the certification of the Settlement Class; the Settlement; Plaintiffs' counsel's application for an award of attorneys' fees and reimbursement of expenses; and the Fairness Hearing;

(h) directed that Defendants and Plaintiffs' Class Counsel, as applicable, shall promptly respond to all requests for copies of the Full Settlement Notice and printed Claim Form by mailing the documents to any Settlement Class Members who shall make such requests;

(i) found that such notice to the members of the Settlement Class as described in the Settlement Agreement: (i) is the best notice practicable to members of the Settlement Class; (ii) is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, conditional certification of the Settlement Class, the proposed Settlement, and the rights of members of the Settlement Class to object to the Settlement; to request exclusion from the Settlement Class; and the application of Plaintiffs' counsel for an award of attorneys' fees and reimbursement of expenses; (iii) is reasonable and constitutes due, adequate and sufficient notice to all persons and entities entitled to receive notice; and (iv) meets all applicable requirements of law including, but not limited to, Rule 23(c) of the Federal Rules of Civil Procedure and the Due Process Clause of the Fourteenth Amendment of the United States Constitution;

(j) directed Plaintiffs' Class Counsel and Defendants' counsel, on or before _____, 2006, to file with the Court evidence that the provisions of paragraphs 9 and 10 of the Hearing Order had been satisfied, which they did;

(k) prescribed the method and period of time during which members of the Settlement Class may file requests to be excluded from the Settlement Class;

(l) provided that, whether or not the Effective Date occurs, any member of the Settlement Class who does not properly and timely request exclusion from the Settlement Class shall be bound by any and all judgments and settlements entered or approved by this Court, whether favorable or unfavorable to the Settlement Class;

(m) prescribed the method and periods of time during which members of the Settlement Class may serve written objections to the Settlement and/or the application for an award of attorneys' fees and/or reimbursement of expenses by Plaintiffs' counsel;

(n) prescribed the methods and periods of time during which members of the Settlement Class must apply for the applicable relief by, *inter alia*, completing a printed

Claim Form such as that attached to the Settlement Agreement as Exhibit C, in order to obtain those facets of the Settlement for which the completion of a Claim Form is required;

(o) directed that if, for any reason, the notice to the Settlement Class Members is not or cannot be provided before February 1, 2006, the Parties will confer in good faith and recommend to the Court that the date by which any Settlement Class Member must seek to receive one or more of the settlement benefits be extended correspondingly;

(p) directed that if the settlement benefits available to Settlement Class Members change, including by operation of Section III(V) of the Settlement Agreement, no new notice need issue to Settlement Class Members;

(q) prescribed the date by which Defendants shall provide notice of the Settlement Agreement to the authorities required to be notified of prospective class action settlements under the Class Action Fairness Act of 2005;

(r) directed that SONY BMG shall pay all costs associated with providing notice to the members of the Settlement Class;

(s) required SONY BMG, between the Preliminary Approval Date and _____, 2006, to cause an independent third party to investigate whether SONY BMG has collected, aggregated or retained personal data in a manner inconsistent with the Settlement Agreement, Paragraph III.S, and to provide the third party's conclusions to Plaintiffs' Class Counsel and to the Court prior to the Fairness Hearing and post the third party's conclusions on its website no more than thirty (30) days after receiving those conclusions, which it did;

(t) preliminarily barred and enjoined Plaintiffs and all members of the Settlement Class and any other person, representative, or entity acting on behalf of any members of the Settlement Class from: (i) filing, commencing, prosecuting, maintaining, or intervening in any claim, lawsuit, arbitration, administrative, regulatory or other proceeding (as members of a class action or otherwise) arising out of the Released Claims against any of the Released Parties; and (ii) organizing or soliciting the participation of any members of the Settlement Class into a separate class for purposes of pursuing as a purported class action (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action) any claim, lawsuit or other proceeding arising out of the Released Claims against any of the Released Parties;

(u) provided that if for any reason, the Effective Date of the Settlement does not occur, the Hearing Order shall become null and void, and shall be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions as of December 22, 2005, except that any extensions of time granted since that date by one Party to the other shall continue to have force and effect, and neither Party shall seek an order of default against any other Party for actions not taken while approval of the Settlement was pending, and the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders issued in connection with consideration of the Settlement, including this Order, shall be used or referred to in any litigation for any purpose whatsoever, except as required to enforce those provisions of the Settlement Agreement which survive a failure of the Settlement to be

consummated or the Effective Date of the Settlement to occur including, without limitation, paragraphs IX.A., IX.B., XI.C., XI.D., XI.K., and XI.L. of the Settlement Agreement.

(v) provided that nothing in the Hearing Order shall be construed or used as an admission, concession, or declaration by or against SONY BMG for any fault, wrongdoing, breach or liability; or be construed or used as an admission, concession, or declaration by or against Plaintiffs or the members of the Settlement Class that their claims lack merit or that the relief requested in the operative Complaint in this Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or claims he, she, or it may have; or be construed as a finding or conclusion of the Court with respect to the merit or lack of merit of any claim asserted in the Action or the defense to any claim asserted in the Action; and

WHEREAS, on _____, Defendant submitted to this Court proof of the e-mailing of the Full Statement Notice, the posting of the Full Statement Notice on SONY BMG's website, the use of the "Banner" to provide a link to the Full Settlement Notice, the coordination with prominent search engines, to make the Full Settlement Notice readily accessible on the Internet, and publication of the Summary Settlement Notice, as directed in the Hearing Order, pursuant to which members of the Settlement Class were notified of their rights to: (i) request exclusion from the Settlement Class; or (ii) appear at the hearing in favor of, or opposition to, the Settlement and/or the application of Plaintiffs' counsel for award of fees and reimbursement of expenses; and

WHEREAS, SONY BMG has submitted evidence demonstrating, and the Court finds, that SONY BMG provided the notices to the United States Department of Justice and to the Attorneys General of the 50 States, as required by the Class Action Fairness Act of 2005, Pub. L. 109-2 (2005), and specified in 28 U.S.C. § 1715; and

WHEREAS, the Fairness Hearing was duly held as noticed on _____, 200__; and

WHEREAS, this Court, having heard from Plaintiffs' Class Counsel on behalf of the Settlement Class, and from Defendants' counsel, and having reviewed all other arguments and submissions presented by all interested persons and entities with respect to the Settlement and

the application of Plaintiffs' counsel for an award of attorneys' fees and reimbursement of expenses; and

WHEREAS, all capitalized terms used herein have the meanings set forth and defined in the Settlement Agreement, it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. Notice to the members of the Settlement Class required by Rule 23(c) and (e) of the Federal Rules of Civil Procedure has been provided as directed by this Court in the Hearing Order, and such notice having constituted the best notice practicable, including, but not limited to, the forms of notice and methods of identifying and providing notice to the members of the Settlement Class, and satisfied the requirements of the Federal Rules of Civil Procedure, the Constitution of the United States, and all other applicable laws.
2. The Settlement Class as provided in the Hearing Order is unconditionally certified pursuant to Rules 23(a) and Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure.
3. For purposes of all aspects of the Settlement except the provisions of Section IV, with respect to which the Settlement Class will be certified pursuant to Federal Rule of Civil Procedure 23(b)(2), the prerequisites for a class action under Rules 23(a) and (b)(3) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number members of the Settlement Class is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of Plaintiffs are typical of the claims of the Settlement Class they seek to represent; (d) Plaintiffs have and will fairly and adequately represent the interests of the Settlement Class; (e) the questions of law and fact common to the members of the Settlement Class predominate over any questions affecting only individual members of the Settlement Class; and (f) a class action is superior to all other available methods for the fair and efficient adjudication of this controversy.

4. For purposes of the injunctive relief specified in Section IV of the Settlement, the prerequisites for a class action under Rules 23(a) and (b)(2) of the Federal Rules of Civil Procedure have been satisfied in that: (a) the number members of the Settlement Class is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of Plaintiffs are typical of the claims of the Settlement Class they seek to represent; (d) Plaintiffs have and will fairly and adequately represent the interests of the Settlement Class; and (e) the Defendants have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole.

5. The Settlement, as set forth in the Settlement Agreement, is in all respects fair, reasonable, and adequate, and in the best interests of the Settlement Class Members, and is approved in all respects in accordance with Rule 23 of Federal Rules of Civil Procedure.

6. Plaintiffs and Defendant are directed to promptly consummate the Settlement in accordance with the Settlement Agreement and all of its terms.

7. The Settlement shall not be deemed to constitute an admission or finding of liability or wrongdoing on the part of Defendant, or any of the Plaintiffs, Settlement Class Members, or Released Parties.

8. Those persons appearing on the list annexed hereto as Exhibit A have properly and timely requested exclusion from the Settlement Class, pursuant to the terms of this Court's Hearing Order, and are excluded from the Settlement Class, shall not be bound by this Final Order and Judgment (except with respect to the injunctive relief specified in Section IV of the Settlement Agreement), and shall not participate in the proceeds of the Settlement hereby approved nor receive any benefit thereunder.

9. The Action is hereby dismissed, with prejudice, on the merits, as against all Plaintiffs and all members of the Settlement Class, on the terms and conditions set forth in the Settlement Agreement, and without costs to any party except as provided herein, in the Hearing Order and in the Settlement Agreement.

10. Upon the Effective Date, each Plaintiff and each Settlement Class Member shall be deemed to have, and by operation of this Final Order and Judgment shall have, fully, finally, and forever released, relinquished and discharged all Released Claims (including Unknown Claims) against the Released Parties, in the manner(s) set forth in the Settlement Agreement.

11. Upon the Effective Date, each Plaintiff and each Settlement Class Member shall be permanently barred and enjoined from asserting, commencing, prosecuting or continuing any of the Released Claims.

12. Upon the Effective Date, Defendants shall be deemed to have, and by operation of this Final Order and Judgment shall have, fully, finally and forever released, relinquished and discharged all of the Plaintiffs, Plaintiffs' Class Counsel and all agents of and expert witnesses retained by Plaintiffs' Class Counsel from any claims (including Unknown Claims) for abuse of process, malicious prosecution or any other claim arising out of, relating to, or in connection with the institution, prosecution, assertion or resolution of the Action.

13. Upon the Effective Date, Defendants shall be deemed to have waived the limitation of liability provisions (XCP EULA and MediaMax 5.0 EULA Article 6; MediaMax 3.0 EULA Article 4.1), and the New York forum selection clauses (XCP EULA and MediaMax 5.0 EULA Article 10; MediaMax 3.0 EULA Article 6.1) of the EULAs, only to the extent that a person pursues non-Released Claims against Defendants on an individual, as opposed to class action or mass action, basis.

14. Based on the record and confirmatory discovery obtained by Plaintiffs' Class Counsel, the Court finds that the scope of the Settlement Class and Release are appropriate in light of concerns that non-Released Claims for consequential damages to a computer or network as defined in Section II.O. of the Settlement Agreement may raise questions concerning the predominance and manageability required under Federal Rule of Civil Procedure 23(b)(3).

15. An incentive payment, not to exceed \$1,000, is hereby awarded to each of the following named plaintiffs in the Action and the Non-S.D.N.Y. Actions: **[insert names]**. Defendants shall pay \$1,000 to each of the specified individuals within ten (10) business days after the Effective Date.

16. Plaintiffs' counsel are hereby awarded (i) attorneys' fees in an amount not to exceed **[sum to be specified]**, and (ii) reimbursement of their reasonable documented expenses incurred up to and through the date of the Fairness Hearing in an amount not to exceed **[sum to be specified]**. Such amounts are to be paid to Plaintiffs' Class Counsel by Defendants within ten (10) business days after the Effective Date, and in accordance with Paragraphs __, __ of the Settlement Agreement. Such expenses shall not include any expenses incurred in connection with notice or fulfillment of the Settlement or providing the Settlement Benefit(s) to Settlement Class Members, which costs and expenses shall be borne entirely by Defendants.

17. The award of attorneys' fees to Plaintiffs' counsel, as provided in paragraph 16, above, shall be allocated among Plaintiffs' counsel in a fashion which, in the opinion of Plaintiffs' Class Counsel, fairly compensates Plaintiffs' counsel for their respective contributions in the prosecution of the Action. In making its award of attorneys' fees and reimbursement of expenses, in the amounts described in paragraph 16, above, the Court has considered and finds as follows:

a. The Settlement has provided a significant amount of cash and non-cash relief to the Settlement Class.

b. Defendants' adoption of substantial changes to their business practices and procedures involving the use and appropriate disclosure of Content Protection Software were a negotiated material term of Settlement.

c. The Settlement Notice was published to at least _____ putative Settlement Class members. Only _____ [No] objections were filed against the terms of the proposed Settlement.

d. Plaintiffs' counsel have conducted the litigation and achieved the Settlement with skill, perseverance, and diligent advocacy on behalf of Plaintiffs and the Settlement Class as a whole.

e. The Action involves complex factual and legal issues and, in the absence of Settlement, would involve further lengthy proceedings and uncertain resolution of such issues.

f. Had Settlement not been achieved, there would remain a significant risk that the Settlement Class may have recovered less or nothing from Defendants, and that any recovery would have been significantly delayed which would have resulted in the continued exposure of Settlement Class members' computers to security vulnerabilities.

g. The amount of attorneys' fees and reimbursable expenses awarded to Plaintiffs' counsel is fair and reasonable, given the number of attorney hours expended to achieve the Settlement on behalf of Plaintiffs and the Settlement Class as a whole, and the estimated value of the settlement benefits obtained for the Settlement Class, and the amount awarded is consistent with awards for similar work in similar cases.

18. Following the Effective Date, Plaintiffs' Class Counsel may separately request the Court to award to Plaintiffs' Class Counsel a further reimbursement of their reasonable

documented expenses incurred between the Fairness Hearing and the Effective Date, provided that this amount, when added to the amount awarded pursuant to paragraph 16(ii), above, does not exceed _____. Defendants shall pay this amount, or such smaller amount, awarded by the Court to Plaintiffs' Class Counsel.

19. Defendants and the Released Parties shall not be liable for any additional fees or expenses for Plaintiffs' Class Counsel or counsel of any Plaintiff or Settlement Class Member in connection with the Action or the Non-S.D.N.Y. Actions, beyond those expressly provided in the Settlement Agreement, and paragraphs 15 through 18, above.

20. After the Effective Date, and before receiving any portion of the attorneys' fees specified in paragraph 16, counsel pursuing any of the Non-S.D.N.Y. Actions shall voluntarily discontinue such Non-S.D.N.Y. Actions.

21. By reason of the Settlement, and approval hereof, there is no just reason for delay and this Final Order and Judgment shall be deemed a final judgment pursuant to Rule 54(b) of the Federal Rules of Civil Procedure.

22. Jurisdiction is reserved, without affecting the finality of this Final Order and Judgment, over:

(a) Effectuating the Settlement and the terms of the Settlement Agreement, including the payment of Plaintiffs' counsel's attorneys' fees and reimbursement of expenses, including any interest accrued thereon;

(b) Supervising all aspects of the administration of the Settlement, and providing the benefits of the Settlement to Settlement Class Members, including, but not limited to, the resolution of any complaints submitted by Settlement Class Members, and for future allowances of expenses incurred by Plaintiffs' counsel solely in the administration of the Settlement, subject to the limits specified above in Paragraph 16;

(c) Determining whether, in the event an appeal is taken from any aspect of this Final Order and Judgment, notice should be given at the appellant's expense to some or all Settlement Class Members apprising them of the pendency of the appeal and such other matters as the Court may order;

(d) Enforcing and administering the Settlement Agreement and the Settlement including any releases executed in connection therewith, and the provisions of this Final Order and Judgment;

(e) Adjudicating any disputes that arise under the Settlement Agreement; and

(f) Any other matters related or ancillary to the foregoing.

Dated: New York, New York

_____, 2006

SO ORDERED, ADJUDGED AND DECREED

THE HONORABLE NAOMI R. BUCHWALD
UNITED STATES DISTRICT JUDGE

Settlement Agreement -- Exhibit C

ARTIST	GENRE	TITLE 1	Selection	Full Album	TITLE 2	Selection	Full Album
Acceptance	Rock	Phantoms	CK 89016	YES			
Alexander, Jessi	Country	Honeysuckle Sweet	CK 90849	YES			
Amerie	R&B	All I Have	CK 85959	YES	Touch	CK 90763	YES
Amos, Tori	Pop	Scarlet's Walk	EK 86412	YES	The Beekeeper	EK 92800	YES
Anastacia	Dance	Freak of Nature	EK 86010	YES	Not That Kind	EK 69948	YES
Anointed	Gospel	Now is the Time	CK 90929	YES			
Anthony, Marc	Pop	Mended	CK 85300	YES	Marc Anthony	CK 69726	YES
Ataris	Rock	So long, Astoria	CK 86184	YES			
Babyface	R&B	The Essential: Babyface	EK 89172	YES			
Backstreet Boys	Pop	The Hits—Chapter One	01241417792	YES			
Bad Plus	Jazz	Give	CK 90771	YES	Suspicious Activity	CK 94740	YES
Blakey, Art	Jazz	The Jazz Messengers	CK 65265	YES			
Blu Cantrell		Bittersweet	82876527292	YES			
Botti, Chris	Jazz	To Love Again, The Duets	CK 677505	YES	When I Fall In Love	CK 92872	YES
Bow Wow	Rap	Wanted	CK 93505	YES			
The Calling	Rock	Two	82876566122	YES	Camino Palmero	7863675852	YES
Carpenter, Mary Chapin	Country	Between Here And Gone	CK 86619	YES	The Essential: Mary Chapin Carpenter	CK 90772	YES
Carter, Aaron	Pop	Most Requested Hits	82876555702	YES			
Cash, Roseanne	Country	Interiors	CK 677638	YES	Seven Year Ache	CK 677637	YES
Cassidy	R&B	Split Personality	82876588962	YES			
Cave In		Antenna	07863681312	YES			
Chasez, JC	Pop	Schizophrenic	82876537242	YES			
Citizen Cope		The Clarence Greenwood Recordings	82876521142	YES			
Coe, David Allan	Country	The Essential: David Allan Coe	CK 89073	YES			
Coheed and Cambria	Rock	In Keeping Secrets	CK 92686	YES	Good Apollo	CK 93989	YES
Colvin, Shawn	Pop	Polaroids	CK 93452	YES			
Coral	Rock	The Coral	CK 87192	YES			
Crossfade	Rock	Crossfade	CK 87148	YES			
Crowell, Rodney	Country	The Outsider	CK 94470	YES	Diamonds & Dirt	CK 61612	YES
Cypress Hill	Rap	III (Temples Of Boom) Edited	CK 67433	YES	Live At The Fillmore	CK 85273	YES
Da Brat	Rap	Limelite, Luv & Niteclubz	82876525092	YES			
Dead 60's	Rock	The Dead 60's	EK 677675	YES			
Diamond Rio	Country	Completely	07863670462				
Dimeola, Al	Jazz	The Essence of Al Dimeola	CK 52920	YES			
Dion, Celine	Pop	A New Day... Live In Las Vegas	EK 86400	YES			
Downey Jr, Robert	Pop	The Futurist	SK 92654	YES			
Dr. Hook	Pop	Super Hits	CK 85876	YES	The Essential Dr. Hook & Medicine Show	CK 86813	YES
Earth Wind and Fire	Pop	Greatest Hits	C2K 86661	YES	Spirit (expanded)	CK 65739	YES
Ellington, Duke	Jazz	Piano In The Background	CK 87107	YES	Masterpieces By Ellington	CK 87043	YES
Ellis, Don	Jazz	Electric Bath	CK 65522	YES			
Estefan, Gloria	Pop	Unwrapped	EK 86790	YES	Mi Tierra	EK 53807	
Eve 6		Eve 6	07863676172	YES			
Fatty Koo	R&B	House Of Fatty Koo	CK 91256	YES			
Fishbone	Rock	Truth And Soul	CK 40891	YES	The Essential Fishbone	CK 86361	YES
Flatt & Scruggs	Country	Foggy Mountain Jamboree	CK 677627	YES			
Fleck, Bela	Jazz	Perpetual Motion	SK 89610	YES			
Frankie J	R&B	The One	CK 96432	YES			
Fuel	Rock	Something Like Human	EK 90705	YES			
Full Scale	Rock	Full Scale	CK 93557	YES			
Future Leaders of the World	Rock	LVL IV	EK 89192	YES			
Getz, Stan	Jazz	Jazz Moods: Cool	CK 90690	YES			
Ginuwine	Rap	The Senior	EK 86960	YES			
Good Charlotte	Rock	The Chronicles of Life & Death	EK 92425	YES			
Gordon, Dexter	Jazz	Manhattan Symphonie	CK 677633	YES			
Gray, Macy	R&B	The Very Best Of Macy Gray	EK 92944	YES	Macy Gray On How Life Is	EK 61400	YES
Green, Vivian	R&B	Vivian	CK 677881	YES	A Love Story	CK 86357	YES
Gregory, James	Comedy	It Could Be A Law, I Don't Know! The Funniest Man In	EK 46080	YES			
Griffin, Eddie	Comedy	Message In The Hat	EK 53805	YES			
Griggs, Andy	Country	This I Gotta See	82876596302	YES			
Haggard, Merle	Country	Love Songs	EK 90569	YES	The Essential Merle Haggard: The Epic Years	EK 90568	YES
Hancock, Herbie	Jazz	The Piano	CK 87083	YES			
Heart	Rock	Little Queen	EK 85772	YES	Bebe Le Strange	EK 85770	YES
Incubus	Rock	A Crow Left Of The Murder	EK 90890	YES	Morning View	EK 85227	YES
Indigo Girls	Rock	Indigo Girls	EK 85109	YES	All That We Let In	EK 91003	YES
Indigo Girls	Rock	Rites Of Passage	EK 61576	YES			
Jagged Edge	R&B	Hard	CK 87017	YES	JE Heartbreak	CK 69862	YES
Jennings, Waylon	Country	Highwayman 2	CK 45240	YES			
Jewell, Buddy	Country	Times Like These	CK 677879	YES	Buddy Jewell	CK 90131	YES
Jones, George	Country	Love Songs	EK 67151	YES			
Kings of Leon		Aha Shake Heartbreak	82876645442	YES			
Korn	Rock	Greatest Hits, Vol 1	EK 92700	YES	Issues	EK 62239	YES
Kristopherson, Kris	Country	Kristofferson	JK 85281	YES			
Labellie, Patti	R&B	Love Songs	EK 85290	YES			
Lamb of God	Rock	Ashes Of The Wake	EK 90702	YES			
Lambert, Miranda	Country	Kerosene	EK 92028	YES			
Lauper, Cyndi	Pop	The Body Acoustic	EK 94569	YES			
Leadbelly	Blues	King Of The 12-String Guitar	CK 46776	YES			
Lewis, Ramsey	Jazz	Love Songs	CK 93568	YES			
Lit	Rock	A Place In The Sun	82876681515	YES	Atomic	07863680862	YES
Longwave		There's A Fire	82876670352	YES	The Strangest Things	07863681792	YES
Lopez, Jennifer	Pop	Rebirth	EK 90622	YES			

ARTIST	GENRE	TITLE 1	Selection	Full Album	TITLE 2	Selection	Full Album
Loveless, Patty	Country	On Your Way Home	EK 86620	YES			
Marie, Teena	R&B	Robbery	EK 677629	YES	Super Hits	EK 86344	YES
Marsalis, Wynton	Jazz	Hot House Flowers	CK 39530	YES	Marsalis Plays Monk	CK 67503	YES
Martin, Charlotte	Rock	On Your Shore	82876606762	YES			
Martin, Ricky	Pop	Life	CK 678318	YES	Ricky Martin	CK 69891	YES
Mary Mary	R&B	Mary Mary	CK 677733	YES			
Mathis, Johnny	Pop	Love Songs	CK 87065	YES	Christmas Music: A Personal Collection		
Mathis, Johnny	Pop	Open Fire, Two Guitars	CK 65862	YES	Good Night, Dear Lord	CK 64891	YES
McKay, Nellie	Pop	Get Away From Me	CK 90940	YES			
Monk, Thelonious	Jazz	The Essential: Thelonious Monk	CK 89175	YES	Jazz Moods: 'Round Midnight	CK 90692	YES
Monroe, Bill	Country	16 Gems	CK 53908	YES			
Montgomery Gentry	Country	You Do Your Thing	CK 80558	YES			
Moore, Mandy	Pop	The Best of Mandy Moore	EK 93458	YES			
Mudvayne	Rock	Lost And Found	EK 90784	YES			
Mulligan, Gerry	Jazz	Jeru	CK 677634	YES			
Nalick, Anna	Pop	Wreck Of The Day	CK 90891	YES			
Nas	Rap	God's Son	CK 86985	YES			
Nine Days	Rock	The Madding Crowd	BK 63634	YES			
O'Jays	R&B	The Essential O'Jays	EK 90632	YES			
Omarion	R&B	O	EK 92818	YES			
Paul, Billy	Pop	Super Hits	EK 86553	YES			
Paycheck, Johnny	Country	Johnny Paycheck - 16 Biggest Hits	EK 69968	YES			
Phillips, Esther	Jazz	Jazz Moods	EK 93641	YES			
Randall, Jon	Country	Walking Among The Living	EK 92083	YES			
Raveonettes	Rock	Chain Gang of Love	CK 90353	YES			
Raye, Colin	Country	16 Biggest Hits	EK 86682	YES			
Rich, Charlie	Country	16 Biggest Hits	EK 69740	YES			
Rockpile	Rock	Seconds Of Pleasure	CK 63983	YES			
Satriani, Joe	Rock	Is There Love In Space?	EK 90832	YES	Strange Beautiful Music	EK 86294	YES
Savage Garden	Pop	Savage Garden	CK 67954	YES			
Scruggs, Earl	Country	I Saw The Light With Some Help From My Friends	CK 92793	YES			
Simon, Carly	Pop	Moonlight Serenade	CK 94890	YES			
Simpson, Jessica	Pop	In This Skin	CK 92005	YES			
Sinatra, Frank	Pop	I've Got A Crush On You	CK 66964	YES	Sinatra Sings His Greatest Hits	CK 65240	YES
Skaggs, Ricky	Country	Live In London	EK 93546	YES			
Stanley Brothers	Country	The Complete Columbia Stanley Brothers	CK 53798	YES			
Sweet, Matthew	Pop	Time Capsule: The Best of Matthew Sweet 1990-2000	61422311572	YES			
Switchfoot	Rock	Nothing Is Sound	CK 94581	YES	The Beautiful Letdown	CK 86967	YES
Tatum, Art	Jazz	Piano Starts Here	CK 64690	YES			
Train	Pop	Alive At Last	CK 92830	YES	My Private Nation	CK 85593	YES
Tritt, Travis	Country	My Honky Tonk History	CK 92084	YES	Strong Enough	CK 86660	YES
Tyrell, Steve	Jazz	This Guy's In Love	CK 89238	YES	This Time Of Year	CK 86638	YES
Vandross, Luther	R&B	This Is Christmas	EK 92701	YES	The Ultimate Luther Vandross	EK 85991	YES
Vandross, Luther	R&B	Your Secret Love	EK 67553	YES	The Essential Luther Vandross	EK 89167	YES
Vaughan, Sarah	Jazz	Love Songs	CK 93570	YES	Sarah Vaughan In High-Fi	CK 65117	YES
Vendetta Red	Rock	Between the Never and the Now	EK 86415	YES			
The Verve Pipe	Pop	Undereath	07863879962	YES			
Watts Jeff Train	Jazz	Citizen Tain	CK 69551	YES			
White, Peter	Jazz	Confidential	CK 89090	YES			
Xscape	Rap	Traces Of My Lipstick	CK 68042	YES	Off The Hook	CK 67022	YES
Yamagata, Rachael		Happenslance	82876505662	YES			
ZZ Top	Rock	Mescalero	82876511682	YES			

Settlement Agreement -- Exhibit D

[illegible]

Upon the motion of plaintiffs Edwin Bonner, Ori Edelstein, Joseph Halpin, Robert Hull, Andrew Klewan, John Maletta, James Michaelson, Jeffrey Potter, Tom Ricciuti, Yvonne Ricciuti, Dora Rivas, Mary Schumacher and James Springer (“Plaintiffs”) in the above-captioned class action lawsuit (the “Action”), and defendants SONY BMG Music Entertainment (“SONY BMG”), a Delaware general partnership, First4Internet Ltd. (“F4I”), a corporation located in and organized under the laws of the United Kingdom, SunnComm International Inc., a Nevada corporation headquartered in Arizona (which, collectively with MediaMax Technology Corp., a Nevada corporation headquartered in Arizona, will be referred to herein as “SunnComm”; SunnComm, F4I and SONY BMG will be collectively referred to herein as “Defendants”; and Plaintiffs and Defendants will be collectively referred to herein as the “Parties”); the Settlement Agreement, dated December 28, 2005, and exhibits thereto (the “Settlement Agreement”); and upon all prior proceedings conducted in this Action, this Court hereby finds that reasonable cause exists to consider whether to approve the proposed settlement set forth in the Settlement Agreement (the “Settlement”) and to conduct a hearing, pursuant to Rule 23(e) of the Federal

Rules of Civil Procedure, to determine, *inter alia*: (a) whether the Settlement is fair, reasonable, and adequate, and whether it should be approved pursuant to Rule 23 of the Federal Rules of Civil Procedure; and (b) whether the application of Plaintiffs' counsel for an award of attorneys' fees and reimbursement of expenses should be granted,

IT IS HEREBY ORDERED, that:

1. The Court, for settlement purposes only, hereby conditionally certifies pursuant to Rule 23(a) and Rules 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure, a class consisting of the named Plaintiffs in the Action and all natural persons or entities in the United States who purchased, received, came into possession of or otherwise used one or more MediaMax CDs and/or XCP CDs prior to the Effective Date. Excluded from the Settlement Class are Released Parties; SONY BMG-authorized resellers or distributors of the XCP CDs and MediaMax CDs; current or former employees of Released Parties; and any persons or entities that have previously executed releases discharging Defendants from liability concerning or encompassing any or all claims that are the subject of the Action and the Non-S.D.N.Y. Actions.¹

2. The Court finds, with respect to the non-injunctive portions of the Settlement Agreement (*i.e.*, all those except the provisions in Section IV) that: (a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the named representatives are typical of the claims of the Settlement Class they seek to represent; (d) the Plaintiffs will fairly and adequately represent the interests of the Settlement Class; (e) the questions of law and fact common to the Settlement Class predominate over any questions

¹ All capitalized terms in this Order shall have the same meaning as defined in the Settlement Agreement dated December 27, 2005.

affecting only individual members of the Settlement Class; and (f) a class action is superior to other available methods for the fair and efficient adjudication of the controversy.

3. The Court finds, with respect to the injunctive portions of the Settlement Agreement specified in Section IV, that: (a) the number of Settlement Class Members is so numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Settlement Class; (c) the claims of the named representatives are typical of the claims of the Settlement Class they seek to represent; (d) the Plaintiffs will fairly and adequately represent the interests of the Settlement Class; and (e) the Defendants allegedly have acted or refused to act on grounds generally applicable to the class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class as a whole, if the Settlement Agreement receives final approval.

4. Edwin Bonner, Ori Edelstein, Joseph Halpin, Robert Hull, Andrew Klewan, John Maletta, James Michaelson, Jeffrey Potter, Tom Ricciuti, Yvonne Ricciuti, Dora Rivas, Mary Schumacher, and James Springer are appointed representatives of the Settlement Class.

5. After considering the factors described in Rule 23(g)(1) of the Federal Rules of Civil Procedure, the Court appoints Girard Gibbs & DeBartolomeo LLP and Kamber & Associates, LLC Class Counsel for the Settlement Class.

6. The Court finds that the Settlement as set forth in the Settlement Agreement falls within the range of reasonableness and warrants providing notice of such Settlement to the members of the Settlement Class and, accordingly, the Court, pursuant to Rules 23(c) and 23(e) of the Federal Rules of Civil Procedure, preliminarily approves the Settlement upon the terms and conditions set forth in the Settlement Agreement.

7. The Court sets a hearing to take place on ____, 2006, at _____.m., before this Court, at the Daniel Patrick Moynihan United States Courthouse for the Southern District of

New York, 500 Pearl Street, Room 2270, New York, New York, to hear all interested parties on whether: (i) the requirements for certification of the Settlement Class have been met; (ii) the proposed settlement of the Action in accordance with the terms set forth in the Settlement Agreement, including as part of the settlement the payment of Plaintiffs' Class Counsel's attorneys' fees and reimbursement of Plaintiffs' Class Counsel's expenses, should be approved as fair, reasonable and adequate; and (iii) the Judgment approving the settlement and dismissing the Action on the merits and with prejudice against Plaintiffs and Settlement Class Members should be entered (the "Fairness Hearing"). The Court may adjourn the Fairness Hearing without further notice to the members of the Settlement Class (except those Settlement Class Members who file timely and valid objections).

8. The Court approves the form of the Notice of Pendency and Settlement of Class Action (the "Full Settlement Notice"), substantially in the form of Exhibit F annexed to the Settlement Agreement, which contains instructions for Settlement Class Members to obtain the settlement benefits referenced in the Settlement Agreement, and approves the summary form of that Settlement Notice, substantially in the form of Exhibit G, annexed to the Settlement Agreement.

9. Non-substantive changes may be made to the Full Settlement Notice and Summary Settlement Notice by agreement of the Parties, without further order of this Court.

10. The Court directs that the Settlement Class be given notice of the proposed Settlement as follows:

(a) SONY BMG, on or before _____, shall cause the Full Settlement Notice to be sent by electronic mail ("e-mail") to all Settlement Class Members whose e-mail addresses SONY BMG possesses;

(b) SONY BMG, on or before _____, shall post the Full Settlement Notice on its website. The Full Settlement Notice will remain posted to this website until the date of the Fairness Hearing or until this Settlement Agreement is terminated by its terms.

(c) When a user inserts certain XCP CDs or MediaMax CDs into a computer with an active connection to the Internet, the computer queries SONY BMG's website for content, hereafter referred to as the "Banner," specific to the artist whose work appears on the XCP CD or MediaMax CD. SONY BMG will ensure that, on or before _____, the Banner of XCP CDs and MediaMax CDs so equipped will, in addition to its regular artist-specific content, display a clear and conspicuous link to the Full Settlement Notice.

(d) SONY BMG shall work with (and, if necessary, compensate) Google and other search engine firms to ensure that a link to the Full Settlement Notice is displayed prominently when users of those search engines search for words such as "XCP," "MediaMax" and "SONY BMG Settlement."

(e) SONY BMG shall cause the Summary Settlement Notice to be published, on or before _____ in (i) the *USA Today* newspaper, or another, similar publication of national circulation; (ii) *People* magazine, or another, similar publication of national circulation; (iii) *Rolling Stone* and *Spin* magazines; (iv) the *Los Angeles Times*, (v) the *New York Daily News*; (vi) the *New York Post*; (vii) the *Chicago Tribune* and (viii) the *Atlanta-Journal Constitution*. With respect to the daily publications listed above, the advertisements containing the Summary Settlement Notice shall be published on any single Monday, Tuesday, Wednesday or Thursday, and shall not be required to be more than an eighth-page in size.

(f) Plaintiffs' Class Counsel may continuously post the Summary Notice and the Full Settlement Notice on their firm websites, beginning two (2) business days prior to _____, and ending on the date of the Fairness Hearing.

Plaintiffs' Class Counsel will, additionally, cause the joint press release described in Section XI.F. of the Settlement Agreement, which will contain the information included in the Summary Settlement Notice, to be issued over PR Newswire, or another similar national business wire service, on any one date on or after the date two (2) business days prior to the date set forth in the Hearing Order for transmission of the Full Settlement Notice and publication of the Summary Settlement Notice.

11. The Court directs that Defendants and Class Counsel, as applicable, shall promptly respond to all requests for copies of the Full Settlement Notice and printed Claim Form by sending the documents via U.S. mail or e-mail to any Settlement Class Members who shall make such requests.

12. The Court finds that such notice to the members of the Settlement Class as described above: (a) is the best notice practicable to members of the Settlement Class; (b) is reasonably calculated, under the circumstances, to apprise members of the Settlement Class of the pendency of the Action, conditional certification of the Settlement Class, the proposed Settlement, and the rights of members of the Settlement Class to object to the Settlement; to request exclusion from the Settlement Class; and the application of Plaintiffs' counsel for an award of attorneys' fees and reimbursement of expenses; (c) is reasonable and constitutes due, adequate and sufficient notice to all persons and entities entitled to receive notice; and (d) meets all applicable requirements of law including, but not limited to, Rule 23(c) of the Federal Rules of Civil Procedure and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

13. The Court directs Class Counsel and Defendant's counsel, on or before _____, to file with the Court evidence that the provisions of paragraphs 9 and 10 of this Order have been satisfied.

14. The Court directs that any person or entity who is a member of the Settlement Class and who wishes to exclude himself, herself, itself, or themselves from the Settlement Class shall, in writing, by letter postmarked on or before _____, submit a request for exclusion that sets forth: (a) such person's or entity's name and address, or the name and address of the person or entity for which he, she or it is acting; (b) the CD title (including artist and album name) he, she, it, or they claims to have received, came into possession of or otherwise used; and (c) a clear and unambiguous statement that such person or entity wishes to be excluded from the Settlement Class. Any person or entity who fails to timely and/or properly seek exclusion from the Settlement Class as provided herein, shall be deemed members of the Settlement Class for all purposes and shall be henceforth bound by all orders and/or judgments of this Court;

15. Any person or entity who does not timely and/or properly seek exclusion from the Settlement Class may, solely at the expense of such person or entity, be heard personally or through counsel retained by such person or entity solely at the cost of such person or entity, on: (a) whether the Settlement is fair, reasonable, and adequate to Settlement Class members and whether the proposed Settlement should or should not be approved by the Court; and/or (b) the application of Class Counsel in the Actions for an award of attorneys' fees and/or reimbursement of expense should or should not be granted, provided, however, that such person or entity, on or before _____: (i) has filed with the Clerk of the Court a notice of intention of such person or entity to appear, personally or, if such person or entity intends to appear by counsel, such counsel has filed a Notice of Appearance, with a written statement that

describes in full the basis for any opposition of such person or entity to any or all of the applications before the Court at the Fairness Hearing and attaching all supporting documentation and a list of any and all witnesses or experts, if any, whom such person or entity shall present to this Court; and (ii) has on or before _____, served copies of such notice(s), statement(s), documentation and list(s) together with any other papers or brief(s) that such person or entity files with the Court or wishes the Court to consider, upon the following counsel of record in the Action: Daniel C. Girard, Girard Gibbs & De Bartolomeo LLP, 601 California Street, Suite 1400, San Francisco, California 94108, Class Counsel; Jeffrey S. Jacobson, Esq., Debevoise & Plimpton LLP, 919 Third Avenue, New York, New York 10022, counsel for SONY BMG; Leonard T. Nuara, Esq., Thacher, Proffitt & Wood LLP, 25 DeForest Avenue, Summit, NJ 07901, counsel for F4I; and Andrew C. Devore, Esq., Manatt, Phelps & Phillips, L.L.P., 7 Times Square, New York, New York 10036, counsel for SunnComm.

16. The Parties shall, by _____, file and serve all papers in support of the application for final approval of the Settlement, including the provision for payment of attorneys' fees and reimbursement of expenses.

17. The Parties shall, by _____, file and serve all papers in response to any valid and timely objections received by the designated counsel for the Parties identified in the Full Settlement Notice.

18. The Court directs that the deadline for Settlement Class Members to complete (and, where applicable, return) Claim Forms to Defendant shall be December 31, 2006, unless such deadline is extended by further Order of this Court without further notice. Any member of the Settlement Class who fails to submit a valid and properly completed Proof of Claim in the form set forth therein, dated or postmarked on or before December 31, 2006, unless such

deadline date is extended, shall be barred from any recovery from that portion of the Settlement for which the submission of a valid Proof of Claim form is required.

19. Pursuant to the Settlement Agreement, if, for any reason, the notice to Settlement Class Members specified above is not or cannot be provided before February 1, 2006, the Parties will confer in good faith and recommend to the Court that the date by which any Settlement Class Member must seek to receive one or more of the Settlement Benefits (specified above in paragraph 14) be extended correspondingly.

20. If the Settlement Benefits available to Settlement Class Members change, including by operation of Section III(V) or IV(A) of the Settlement Agreement, no new notice need issue to Settlement Class Members.

21. Defendants shall, on or before _____, prepare and provide the notices required by the Class Action Fairness Act of 2005, Pub. L. 109-2 (2005), including, but not limited to, the notices to the United States Department of Justice and to the Attorneys General of all states in which Settlement Class members reside, as specified in 28 U.S.C. § 1715. Plaintiffs' Class Counsel shall cooperate in the drafting of such notices and shall provide Defendants with any and all information in their possession necessary for the preparation of these notices.

22. As provided in Section IX. of the Settlement Agreement, SONY BMG shall pay all costs associated with providing notice to the members of the Settlement Class as directed herein, including, but not limited to, publication of the Full Settlement Notice, Summary Settlement Notice, and Claim Forms; postage and handling charges for providing copies of the Full Settlement Notice to potential members of the Settlement Class (as applicable), and for e-mail transmission of the Full Settlement Notice (as applicable); for publication as provided herein of the Summary Notice; and for any necessary costs of administration of the Settlement

that are incurred prior to the Effective Date of the Settlement (as defined in paragraph II.B. of the Settlement Agreement). In the event that this Settlement Agreement does not become final or the Effective Date does not occur for any reason, other than a breach by Plaintiffs or Plaintiffs' Class Counsel of one or more provisions of this Settlement Agreement, Plaintiffs shall have no obligation to reimburse Defendants for any costs or expenses paid, incurred or obligated for notice of this Settlement to the Settlement Class.

23. As provided in Section III.S. of the Settlement Agreement, between the Preliminary Approval Date and _____, SONY BMG will cause an independent third party to investigate whether SONY BMG has collected, aggregated or retained Personal Data in a manner inconsistent with the Settlement Agreement, and SONY BMG will provide the third party's conclusions to Plaintiffs' Class Counsel and to the Court prior to the Fairness Hearing, and shall post the third party's conclusions on its website no more than thirty (30) days after receiving those conclusions.

24. Plaintiffs and all members of the Settlement Class and any other person, representative, or entity acting on behalf of any members of the Settlement Class are, until the Fairness Hearing, barred and enjoined from: (i) filing, commencing, prosecuting, maintaining, or intervening in (as members of a class action or otherwise), any claim, lawsuit, arbitration, administrative, regulatory or other proceeding arising out of the Released Claims against any of the Released Parties; and (ii) organizing or soliciting the participation of any members of the Settlement Class into a separate class for purposes of pursuing as a purported class action (including by seeking to amend a pending complaint to include class allegations, or by seeking class certification in a pending action) any claim, lawsuit or other proceeding arising out of the Released Claims against any of the Released Parties. The Court finds that issuance of this

preliminary injunction is necessary and appropriate in aid of the Court's jurisdiction over the action and to protect and effectuate the Court's review of the Settlement.

25. If for any reason, the Effective Date of the Settlement does not occur, this Order shall become null and void, and shall be without prejudice to the rights of the parties, all of whom shall be restored to their respective positions as of December 22, 2005, except that any extensions of time granted since that date by one Party to the other shall continue to have force and effect, and neither Party shall seek an order of default against any other Party for actions not taken while approval of the Settlement was pending, and the Settlement and Settlement Agreement shall become null and void and be of no further force and effect, and neither the Settlement Agreement nor the Court's orders issued in connection with consideration of the Settlement, including this Order, shall be used or referred to in any litigation for any purpose whatsoever, except as required to enforce those provisions of the Settlement Agreement which survive a failure of the Settlement to be consummated or the Effective Date of the Settlement to occur including, without limitation, paragraphs IX.A., IX.B., XI.C., XI.D., XI.K., and XI.L. of the Settlement Agreement.

26. Nothing in this Order shall be construed or used as an admission, concession, or declaration by or against SONY BMG for any fault, wrongdoing, breach or liability. Nor shall this Order be construed or used as an admission, concession, or declaration by or against Plaintiffs or the members of the Settlement Class that their claims lack merit or that the relief requested in the operative Complaint in this Action is inappropriate, improper, or unavailable, or as a waiver by any party of any defenses or claims he, she, or it may have; nor shall this Order be construed as a finding or conclusion of the Court with respect to the merit or lack of merit of any claim asserted in the Action or the defense to any Claim asserted in this Action.

27. The Court retains exclusive jurisdiction over the Action to consider all further matters arising out of or connected with the Settlement.

Dated: New York, New York

January __, 2006

SO ORDERED, ADJUDGED AND DECREED

THE HONORABLE NAOMI R. BUCHWALD
UNITED STATES DISTRICT JUDGE